

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

FILED	LODGED
RECEIVED	COPY
JUL - 5 2019	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	DEPUTY

EDWARD J. GLADNEY,)

Plaintiff,)

v.) CIVIL NO. : 17-cv-427-DCB

THE UNITED STATES)

OF AMERICA,)

Defendant.)

PLAINTIFF'S SECOND SUPPLEMENTAL STATEMENT OF

UNDISPUTED FACTS

Plaintiff Edward J. Gladney, pro se, hereby submits her Second Supplemental Statement of Undisputed Facts in support of Summary Judgment for the Plaintiff:

42. After the Plaintiff filed her administrative tort claim, and after the Plaintiff filed the instant FTCA lawsuit, USP Tucson initiated "ID scanners" for housing units (Exbt. #24).

43. Plaintiff wrote a Disciplinary Hearing Officer (DHO) a detailed letter documenting "an inmate who had been harassing and stalking" the Plaintiff. (Exbt. #23).

44. The DHO at USP Tucson had video/photo evidence of the Plaintiff being kissed by an inmate. (Exbt. #22).

45. The photo/video evidence the DHO at USP Tucson reviewed shows Plaintiff with her arms and hands by her side. (Exbt. #22).

46. Plaintiff's letter to the DHO stated: "...he forces me to hug and kiss him as I am attempting to exit gym..." (Exbt. #23).

47. Plaintiff's letter to the DHO stated: "...he enters B-2 sally port during 9:00 a.m. move and harasses me to come out...I refuse, he gets angry and bypassed the unit officers...I report to officers that I need to go to Lt. Office...someone has entered...harassing me with a weapon..." (Exbt. #23).

48. Plaintiff's letter to the DHO stated: "I take the dreaded initiative to make A.W. (Assistant Warden) aware that 'I fear for my personal safety with...in my presence'", via EMAIL. (Exbt. #23).

49. Plaintiff's letter to the DHO was submitted to the U.S. District Court for the Middle District of Florida-Ocala Division, used as evidence by Respondent "AUSA J. DiNicola" in the response to Plaintiff's 2241 Petition. (#5:18-cv-00517-MMH-PRL, Doc. 8-2) (Exbt. #23).

50. Plaintiff made the statement to the DHO: "I was in fear and under duress..." (Exbt. #25). Nonetheless, the DHO found Plaintiff guilty as charged. (Exbt. #25, page 2 at V.).

51. The definition of a "sex act" is definite. (18 U.S.C. 2246).

52. Kissing (orally) nor Embracing is a sex act. (18 U.S.C. 2246).

53. Considering Plaintiff's incident report (Exbt. #25) and the definition of a sex act (18 U.S.C. 2246), the "some evidence" standard did not apply to the disciplinary case (Code 205, Engaging In A Sex Act). No evidence existed.

54. Kissing or/and Embracing is a Code 409 violation, per BOP Program Statement, but Plaintiff received Code 205 for "Engaging in a Sex Act".

55. Plaintiff currently has a retaliation claim pending in the U.S. District Court for the Eastern District of Texas-Beaumont Division asserting BOP staff at USP Tucson conducted a sham disciplinary investigation, and transferred Plaintiff (to an institution known to inflict violence upon sexual offenders) due to Plaintiff reporting P.R.E.A. incidents at USP Tucson. (See Docket at 1:18cv293), and (Exbt. #15).

56. Plaintiff has submitted evidence showing that the Defendant has a propensity to possess false, misleading, or otherwise ill-documented records and reports concerning Plaintiff. (Exbt. #17, #18, #19, #21, and #25).

57. The DHO at USP Tucson stated in Plaintiff's disciplinary report: "...The letter stated inmate GLADNEY was being harassed by inmate...however, when asked if he reported it, inmate Gladney stated 'no'..." (Exbt. #25, page 2 at V.). This contradicts that letter. (Exbt. #23).

58. The DHO at USP Tucson had evidence (letter) that Plaintiff reported the harassment on 5/25/17, between 9:00 a.m. and 9:30 a.m., and on 5/25/17, between 9:40 a.m. and 10:00 a.m. (Exbt. #23), yet the DHO documented that Plaintiff stated she did not report the harassment. (Exbt. #25, page 2 at V.).

59. The Plaintiff was issued the incident report approximately 3 hours after Plaintiff reported the harassing inmate, (See Exbt. #25) (Exbt. #23), and was transferred to USP Beaumont less than 2 months later. (See B.O.P Location History).

DATED: May 27th, 2019

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Edward J. Gladney", written over a horizontal line.

Edward J. Gladney, #80179-279

USP Coleman II

P.O. Box 1034

Coleman, FL 33521

(352) 689-7000

Certificate of Service

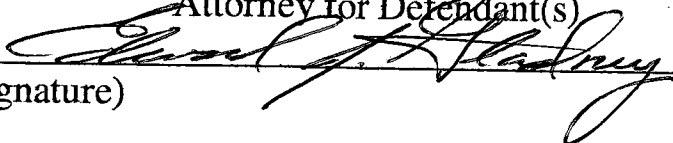
I hereby certify that a copy of the foregoing document was mailed
this July 1st, 2017 (month, day, year) to:

Name: AUSA Michael A. Ambri

Address: 405 W. Congress, Ste #4800, Tucson, AZ 85701

Attorney for Defendant(s)

(Signature)

A handwritten signature in cursive script, appearing to read "Daniel J. Flaherty", is written over a horizontal line.